G. R. S. IX-5J

Previous references.
Mund. 51-96
" — 10-88

1897-98
191 .
(Mund.)

File No. 45-97

Serial Nos. 1-7

Later references.
Mund 101-01

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-7

M ~~Part~~ B for Sept. 98

SUBJECT.

Refunds of the registration fee levied on the foreign liquor merchants.

Entered

W D 1250—GPB—30,000 28-1-19

Avalakki Channabasappa's
claim for a refund of Rs 125-

On the complaint of
foreign liquor shop keepers
in the City of Bangalore,
a report was called for from
the President in regard to
the registration fee charged
to their shops and final
orders were passed in
Pro clo $\frac{1925\cdot9}{139\cdot93}$ dy 12/5/94 to
the effect that the arrears
collected for 3 years ending
1892 93 should be refunded
to shop keepers and that
they should pay the Registration
fee fixed by the Municipality
in addition to the License
fee charged under the Rules

(Sl 11)

and

and that if they thought the rate charged to be excessive, they should obtain redress by appealing to the District Judge under Sec 78 of the Bangalore Municipal Regulations.

(2) Accordingly a suit was filed by Ekangundappa in the Court of the District Judge Chandradroog Division, which pronounced the following judgment:—

+ 29/7/95.

"The Chief Court has laid down (see case etc 229) that the municipality has no power to levy the license fee under the circumstances of this case. Under Sec 78 of the Municipal Regulation, this has the effect of Law.

It is declared that the

Municipality

municipality had no power to impose this tax without the preliminary classification of the Petn's shop and has no power to enforce payment thereof."

(3) On 19th March 1896, the President made the required classification and fixed the annual rate of Rs 25/- as ~~[illegible]~~ as the Registration fee on Arayambadi shop and this was intimated to the Petr by notice exh 533 dy 24/4/96 and demand of Rs 25/- was accordingly made for 1895-96

(4) Petition of Arayambadi in I.A. Petition to this office claims refund of Rs 125/-

on account of collections
made from him as Registration
fee as shewn below :-

Date	Amount
29-6-93	= 100—0—0
18-11-93 - - - .	75—0—0
28-2-94	25-0-0
Receipt-cum-bill without date	25-0—0
Total Rs	225—0—0
Deduct amount refunded	100—0—0
Balance of refund now claimed	125—0—0

(5) The President,
to whom the Petn was
forwarded for report, states
that the refund of Rs 125-
claimed by Petr relates to
the ~~following~~ subsequent years and that
it cannot be allowed as
the Petr was bound to pay
the amount to the Municipality
in respect of those years under
~~and no refund is allowable~~
~~the following circumstances~~
~~for reasons given below.~~ —

(1) As the Municipal Board

(a fees collected up to 4th date only were ordered by Govt to be refunded)

Board in their Pro of 25/9/93 fixed Rs 50 as the annual registration fee on Foreign Liquor shops. the fee was collected at this rate for the years 1893-94 and 1894-95 Petit shop was placed in class II Schedule (II) of the Municipal Regulations rendering it liable to an annual payment as Registration fee of As 25 and this amount was demanded for the year 1895-96

Notice D/24/4/96.

(6) As the classification of the shop was made in March 1896 and demand was accordingly made for the year 1895-96, it is submitted that it is doubtful whether Petit is entitled to refund of this amount.

(7) The only question for

(6)

determination is whether any refund is due to Petr in respect of collections made at the rate of Rs 50 ~~in respect of~~ for the years 1893-94 and 1894-95. Under the terms of the Judgment of the District Court passed on 29/7/95, the Municipality had no power to impose the tax without the preliminary classification. As this classification was made on 19/3/96, Petr does not plead unable to make any payment. But under Govt Pro etc $\frac{1925 \cdot 9}{139 \cdot 93}$ of 12/5/94, Petr is bound to pay the fee from the years 1893-94 & 1894-95 at the rate fixed by the Board in their Pro of 25/9/93 or at Rs 25 according to the classification made on 29/3/96.

(sl 11)

Submitted to Secretary for orders

Please ask the Asst Secy of Govt to send the records of the case from the Chief Court to Revenue Dept

Received the records of Municipalities No 229 of 1894/95 for inspection

2.2.18

The Registrar of the Chief Court having been accordingly addressed in this office etc 1331/139-93 dated 26th July 1898, the records of Mis. cases etc 229 and 230 of 1894-95 have been submitted.

Please see the observations in the Chief Court Judgment in Case etc 229 of 1894-95. It was intended that Para 4 there should be a careful classification of persons and shops under the three classes separately and that it was imperative on the Municipal President to make the classification before demanding a particular rate from any particular person" (page 4/2).

Para 9 "It was admitted by the Advocate who appeared for the Municipality that no such classification has been determined upon in the City

municipality though it has been done in the Cities of Mysore and the Civil and Military Station of Bangalore." (Vide page 4/3).

"It is sufficient to observe that until rules are laid down, effect cannot be given to Schedule C II and no tax can be levied". (Vide page 4/6).

Please see also the Judgment of the District Judge in the same case marked A/5, who held "that until the Govt decide to which class each shop-keeper belongs, the Mty is incompetent to levy any tax" & declared "that the Mty was wrong in imposing this fee or tax under the present circumstances and is not legally competent to enforce payment".

The point for decision now is by Petr whether the tax is payable in respect of

(9)

I think not Q. | of the years 1893.94 and 1894.95 in the light of the above decisions & whether he is not entitled to the refund of the sum collected from him during those 2 years.

I think he is. | Submitted BOR 6/8/98 DWJ 5/8

Sealed & Dely re E. Inc.

Judicial opinion is clearly in favor of the Petn's contention in so far as the tax levied for 1893/94 & 1894/95 - 2½ concerned. There were no proper classifications till March 96. Q

8-8-98

yes. Refund may be granted

Washburn

15/9/98

L 1928

1898

2202

Name of Petitioner Avalakki Nanjundaya
and son Gummanna
Village Foreign Liquor Shop keepers, N
Taluk Elahanka Gate
District Bangalore

Date of Arzi 25 2 98

Date of Receipt 25 2 98

Date of Disposal

No. of Enclosure Nine

ABSTRACT

Appeal against the order
City Municipal Collector
behalf of the President no 18
dated 2 October 1897 infor
that no balance is due by
city Municipality & the Se
as the sum of Rs 150/- ordere
to be refunded by Govt. ha
been paid to them after
adjusting the amount due
as fee, by the petitioners-

State that the Govt in their

The person
Dept. R.?
25/2/98

Refer 2

SD 1

General Records

re put up L. R. 139 of 93-94.

L. R. 139 of 93 put up.

SB. 4/3/98

4/3.

transferred to the Local Boards
Branch

3.98 Asst Secretary

of 15-/Rs unjustly recovered
from them as Registration
fees- that the Municipal
authorities refunded only 10/Rs
reserving the balance for
adjust future adjustment
that they preferred an appeal
before the Distt Judge com-
plaining of the Exhorbitant
classifying of the Municipality
-cation prior to the classifi-
cation of the petitioner's shop,
that thereupon the Distt Judge
declared that the Municipality
had no powers to impose
any fee without preliminary
& classification of the petitioner's
shop nor, power to Enforce the pay-
ment thereof; that the
municipality subsequently
issued notice demanding
payment of Rs 25/- towards
Registration fee on the error
of having completed the classi-
fication as required by the
Distt Judge- that on their
application praying for the
refund of the Sum already

(12)

2/

collected they were favoured with Endt No: 1 ~~No~~ 184 after a delay of 6 months - & that as per receipts granted to them by the Municipality they have paid Rs 225/- in all of which 100 Rs were refunde leaving a balance of 125/- Rs at their credit -

Prays that orders may be issued to refund Rs 125/- due to them by the Municipality

1/3/98

2202

In person
25/2/98

(13)

BANGALORE.
DATED FEBRUARY 1898.

To,

THE SECRETARY TO THE
GOVERNMENT OF MYSORE

GENERAL AND REVENUE
DEPARTMENTS.

The humble appeal of Avalakki Nanjundappa and son Gummanah Foreign liquor shop-keepers, No. 3 Elahanka gate Bangalore City against the *order* of the Collector of Municipal taxes on behalf of the President, (*No I.* 184 *Dated October* 97) enclosed in original, on their petition dated 7-4-97 to the President, (copy enclosed) most respectfully showeth.

1. That on their appeal dated 4th November 93, against the illegal procedure of the City Municipality, Bangalore, in collecting the alleged arrears of Registration fee of Rs. 150 for the period of 3 years, viz 1890-91, 1891-92, 1892-93, the Government in their Proceedings decided that the collection was illegal, and should therefore be refunded to the parties concerned, favoring petitioners accordingly, Endorsement No. 19260—S. F. 139-93 dated 12th May 1894. (copy enclosed)

2 That the Municipality it will be seen by the 3 receipts herein enclosed had collected from the petitioners Rs. 200 up to 28th February 94 including the said arrears of 3 years (viz) 1890-93 at Rs. 50 per annum.

3. That out of this amount the said Municipality in giving effect to the Proceedings of Government above cited refunded only Rs. 100 illegally reserving the other Rs. 100 for future adjustment.

4. That the petitioners not being satisfied by the exhorbitant taxation enforced prior to classifying petitioners' shop, preferred their Appeal to the District Judge of Bangalore under section 78 of the Municipal Regulation on the 3rd October 94.

5. That thereupon the District Judge after a reference to the Chief Court, dscided in his Judgement in Mis: case No. 230 of 1894-95 Dated 29th July 1895, that the Municipality has no powers to impose any tax without preliminary classification of the petitioners shop, nor has it any power to enforce the payment there of (copy of the Judgment enclosed.)

6. That thereupon the Municipality as will be observed, issued their Notice No 533 dated 24th April 1896, to the petitioners, expressing that on the Judgment of the District Judge, they have just classified petitioners' shop, and that they petitioners) should pay a Registration fee of Rs. 25 only from the 19th March 1896, the date of classification of petitioners shop

7. That hence the prayer of the petitioners' on the 7-4-97, above referred to, to the President that the Municipality having no power to tax or enforce the same, till they classified the shops as laid down in the Municipal Regulations, and the previous collections made by them being illegal, they may kindly refund the amounts thus collected as well as the former balance of Rs. 100.

8. The Collector of Municipal taxes, to whom the president referred the petition for disposal, favored petitioners the said endorsement No I. No 184 Dated October 97, after an unusual delay of 6 months, which it will be seen is *quite inconsistent* with the previous receipts granted by the Municipality, acknowledging only the refund of Rs. 100, and omitting other receipts, and finally crediting Rs. 50 out of the Rs. 150 (ordered to be refunded,) for 1894-95.

9. That the following is the list of collections made by the Municipality for the period of 6 years ending 1890-96 prior to the date of classification of ~~shop~~ petitioners' *shop* (viz) 24th Aprial 1896

1.	Manuscript Receipt Dated 29—6—93	Rs100-0-0
2.	Receipt No 195 Dated 18th November 93	75-0-0
3.	Do No 238 Dated 28th February 1894	25-0-0
4.	Do No 64 without Date	25-0-0
	Total Rupees.	225-0-0
	Deduct amount refunded	100-0-0
	Balance Rupees.	125-0-0

10 That under the above circumstance and as all the Registration fees due subsequent to the classification have been paid up by the petitioners, they most humbly pray that the Balance of Rs. 125 shown above may be kindly ordered to be refunded by the Municipality at an early date.

Vichara Darpana press 1898.

MYSORE DEWAN'S OFFICE.

LOCAL BOARDS BRANCH

15

Mund 45-47

c/o 12332
D.139-95 9/4/98

OFFICIAL MEMORANDUM.

The accompanying Appeal Petition
Registered No. 2202/1978 dated 25 February
received at the Dewan's Office from Avali
Chaya and appa and Hoja Gumma
Foreign Liquor shop keepers etc
Ellahanka Gate. Bangalore
praying that orders may be
issued for the refund of Rs 12
due to them by the Bangalore
City Municipality
is forwarded, together with its Nine
enclosures to the President of the
City Municipality for a report as to the
circumstances under which a sum of Rs 5
was credited in the accounts as the
Registration fee due by Petrs for 1894-95, if
preliminary classification progressed in the Judge-
ment of the District Court in Petrs etc 230 of 1894 95
was not made prior to the Presidents' order of
19 March 1896 fixing the rate of Registration fee
for the Petrs' shop at Rs 12 5 per annum and as to
Petrs' claim for a refund of Rs 12 5 as

By order,

Secretary.

Petrs Endst.
Octr 1897.

Called Bangalore
29/3/98
8760

BANGALORE,

189

L. 83/343

OFFICE OF THE MUNICIPAL COMMISSION,

No. 6 / Extra file of papers

City Bangalore, 12th / 13 July 189 8

From

The President, Municipal Commission,

Bangalore City.

To

The Secretary to the
Government of Mysore
General & Rev. Depart^{ts}
Bangalore.

Sir,

Adverting to your Official Memorandum No. 12332 / L.7139-93 dated 1st April 1898 and subsequent reminders, I have the honor to state that the sum of Rs 50/. therein referred to was credited into accounts by book adjustment on account of Registration fee due from the Petitioners Avalakki Venjundappa and Gummanna B. for the year 1894-95 on the 19th September 1894, ten months before the date of Judgement (29th July '95) of the District Judge

Miscellaneous No. 230 of 1894-95.
The rate of Rs 50/- appears to have been adopted in accordance with the Resolution of the Board dated 25th September 1893 (Copy enclosed). Subsequent to this Resolution the liquor Shop-Keepers petitioned the Government in November 1893 and the Government called for a full report which was submitted with this Office letter No. 280 dated 29th June 1894. Government were thereupon pleased to order in Proceedings No. 19259 / Z.7.139-93 of 12th May'94 that the Petitioners were certainly bound to pay the Registration fee fixed by the Board. The matter went before the Board again and the Commissioners were of opinion that the Classi-fication (fixing the scale of Rs 50)

was

was right and should be confirmed for future years. This disposes of the first point.

2. With regard to the other point viz, the Petitioners' claim for a refund of Rs 125/. I beg to state that the sum refers to 3 years as follows:—

For 1893-94 = Rs 50/-
For 1894-95 = Rs 50/-
For 1895-96 = Rs 25/-
Total Rs 125/-

Rs 50/- was the rate fixed, demanded and levied for the years 1893-94 and 1894-95 under the circumstances explained in para 1 above, and for the year 1895-96 the Petitioners' Shop was placed in Class II Schedule C II according to which Rs 25/- was demanded from them for 1895-96. It is necessary to consider these two demands separately

for disposing of Petitioners
Claims for refund. Taking the
demand of Rs 25/- for 1895-96,
I beg to submit that the Peti-
tioners' statement contained
in para 6 of their petition as
the effect that they were required
to pay Rs 25/- only from the
19th March 1896 is false as will
be proved by Notice No 533 Dy
24th April 1896 referred to by them
and produced with their petition.
This notice clearly mentions that
the demand is for 1895-96 and
should be paid up within a
week. Eliminating this item
which is incontestable, there
remains a sum of Rs 100/- re-
lating to the years 1893-94 and
1894-95. The Circumstances con-
nected with this Case are, I beg
to submit quite different from
those connected with the refund
ordered

ordered in Government Proceedings
No. 19259 / I.F.139-93 dated 12th May 1894. The
refund was then ordered as
Government considered the levy
of the Registration fee in 1893-94
with arrears for 1890-91, 1891-92 and
1892-93 was hard upon the Peti-
-tioners as the rate of the fee
Chargeable was not determined
till September 1893 and no de-
-mand of it was made during
the years. In the present case
the rate was fixed by the Board
after mature deliberation and
also demanded in the respective
years from the Petitioners who
actually carried on their busi-
-ness during those years. The
District Judge moreover re-
-marked in his Judgment dated
29th July 1895 in Miscellaneous
Case No. 229 of 1894-95 that the
Municipal

Municipal Regulation. does. not
give any power to him to order
refund of the money already
levied and I beg to submit
that such a refund amounts
to an exemption granted to
Petitioners from payment of
Registration though they actually
carried on their business.

The Enclosures to your Official
Memorandum under reply are
herewith returned.

In Conclusion, I much regret
the delay in the submission
of this report. The subject being
connected with the Collection
Department, it was referred to
the Collector for full Report
and though reminded several
times and urged upon, the
late Collector did not submit
the explanation, and the delay

I

(29)

I attribute to the excess of work thrown on the late Collector by having to arrange for details and duties in connection with the introduction of the supervision system for Plague Prevention Measures.

I have the honor to be
Sir
Your most obt Servant.

T. Leonard

PRESIDENT MUNICIPAL COMMISSION,
BANGALORE, CITY.

Rodts

(23)

Extract from the Proceedings
of the Board of 25th September '93

XXV Papers regarding levy of registration fees on Foreign liquor, beer and toddy shops.

Resolution:- The only question left to the discretion of the Board is the rate for shops for Foreign liquors which should be charged Rs 50/- a year

Sd/ K. Srinivasa Rao.
Vice President

Extract"

T. T. [illegible]
PRESIDENT MUNICIPAL COMMISSION,
BANGALORE CITY.

Proto

(24)

1898

From

The Secretary to the Govt. of Mysore,

General and Revenue Depts.

To

The ~~President of the~~ Registrar of the Chief Court of Mysore

Dated 26th July 1898

Despatched

Received

General No. 1331

L. F. 139-93

Enclosure No.

Has the honour to request that he will be so kind as to send to this office, for reference, the records of Mis: cases Nos 229 & 230 of 1894-S on the file of the late Sh Court Bangalore Dvn in regard to complaints preferred by Foreign Liquor License holders against the Bangalore City order Cty Commissioner.

B.L. 23/7/98

In favour [illegible]

A 203.

25

(General Serial No. 30) 872
3-8-98
1895-99

From The Registrar of the Chief Court, Mysore

To The Secretary to the Govt of Mysore

Date 30 July 98

Date of Receipt 30

Received

Enclosures No. Records

Serial No. Mysl Serial No. 761

" " 45-97 No. 25

Final No 5

Forwards records in Civil cases Nos 229 and 230 of 1896-97 on the file of the late Dist Court Nundydroog &c

To the Darkhast re Govt -1972/1898

J. 30/8/98

Gl Record
Above last of A 139-93 (2 vols)
1/8/57

entral Jail Press, Bangalore.—13-9-94.—2,902.

(26)

Bangalore 30th July 1898.

From,

The Registrar of the
Chief Court of Mysore.

To,

The Secretary to the
Government of Mysore.
General and Revenue Depts.

Sir,

I have the honor to forward herewith records in Miscellaneous Cases Nos 229 and 230 of 1894-95, on the file of the late District Court Nandedroog Division, as called for in your docket No 231 / L.F. No 139-93 dated 26th instant.

I have the honor to be,
Sir,
Your most Obedient Servant,

A Rajagopalachar

Registrar.

A&C

(27)

Read - Pet^{n} No 2202 dated 25th Feb^{y}/98, from Avalakki Ranjundappa & Gunnu Foreign Liquor shop keepers, Bangalore, praying that the duty may be ordered to be refunded

(2) Correspondence ending with letter c/o $\frac{741}{25}$ dated 30/7/98 from the Registrar of the Chief Court forwarding records in Mis cases Nos 229 and 230 of 1894-95 on the file of the late District Court in regard to the complaint preferred by Avalakki Ranjundappa and others Foreign Liquor License holders against the Bangalore City municipality

---

Order thereon

It is represented that since February 1898, Avalakki Ranjundappa and Gunnaiah complained to this office that the Bangalore City municipality had unjustly levied from them registration fee on their liquor shop for 1893-94 and subsequent years

between the sum of Rs 125 said to have been improperly levied by the Municipality as registration fee on their liquor shops

L draft 5
RL 558
4017-19
Lr 139-93 21/9/98

Hi: may file records to the Registrar, Ch: Court.

No. 4020
L. F. 139-93

MYSORE DEWAN'S OFFICE,
LOCAL BOARDS BRANCH.
The 21 September 1898

ENDORSEMENT granted to Avalahki Chanjeendappa and Gunniah praying for a refund of Rs 125 unjustly collected on their Foreign Liquor shop for the years 1893-94, 1894-95 & 1895-96 in reply to Their Petition Registered No 2202 dated 25 February 1898

Petitioners ~~is~~ are informed that they are liable to pay the Registration fee of Rs 25 charged on their shop for the year 1895-96 but that the President of the Bangalore City municipality has been directed to refund the amount of registration fee, viz Rs 100 collected from them on account of the years 1893-94 & 1894-95.

The enclosures to their Petition are herewith returned.

By order

17/9/98
for Secretary.